

**Greasing the Wheels of Cross-Strait Integration? Labor Law Reform and  
the Politics of Emancipation in Taiwan**

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## ABSTRACT

Soon after reclaiming the presidency in 2008 in the second democratic turnover of power in Taiwan, the historically anti-labor Kuomintang (KMT) enacted sweeping pro-labor reforms to the legal framework governing employment relations on the island. The revisions entered into law not only at a time when the former authoritarian party controlled both the executive and legislative bodies, but also in an international setting marked by an onslaught of anti-labor legislation and austerity measures. Adopting a broadly Polanyian theoretical framework, this study illuminates historical processes of social resistance and political change underlying the seemingly paradoxical 2011 reforms. It argues that the former authoritarian party implemented the reforms in order to fragment organized opposition to cross-Strait economic liberalization. The pro-labor reforms therefore served to expand and deepen an emerging cross-Strait neoliberal policy regime while sidelining concerns over the potential socio-political and economic implications of free market integration with China.

## BIOGRAPHICAL SKETCH

Andi Kao grew up in Central Pennsylvania. He earned his Bachelors of Science degrees in History and Political Science from the Pennsylvania State University in May 2009. He entered the MS/PhD program in the School of Industrial and Labor Relations in August 2015 after completing a Master's Degree in China and Asia-Pacific Studies from the National Sun Yat-sen University in Kaohsiung, Taiwan. Andi's research approaches labor politics from a sociological perspective and focuses on capitalist development and emancipatory politics at the crossroads of empire.

For mama, baba, the triple ks, and all people struggling to shelter and enlarge  
humanity.

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**THE 2011 REFORMS AND CROSS-STRAIT RELATIONS**

The KMT government passed major revisions to the Collective Bargaining Agreement Law (2008), the Settlement of Labor Disputes Law (2009), and the Labor Union Law (2010) in rapid succession following its landslide victories in the 2008 national elections.<sup>1</sup> Among the amendments were provisions recognizing industrial unions as a third category of sanctioned unions; removing legal restrictions on the rights of teachers and migrant workers to unionize; creating a Labor Adjudication Board; explicitly prohibiting unfair labor practices; and mandating collective bargaining at the request of one party.<sup>2</sup> The package of reforms entered into force collectively in 2011 and amounted to no less than a ‘complete overhaul’ of the legal framework undergirding labor relations in Taiwan.<sup>3</sup> Legal scholars anticipated that the reforms would strengthen the Taiwanese labor movement and usher in a ‘new era of industrial relations’ by boosting union membership, facilitating collective bargaining, and protecting workers’ rights to unionize (Tai 2011).

Existing scholarship locates the origins of the 2011 reforms in the nature of institutional ties between political parties and labor organizations

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<sup>1</sup> <https://english.mol.gov.tw/homeinfo/7040/7823/?cprint=pt>

<sup>2</sup> <https://loc.gov/law/foreign-news/article/taiwan-labor-union-law-amended-giving-teachers-right-to-unionize/>

<sup>3</sup> Interview with Special Committee Member of the Department of Labor Relations Wen-juan Luo, Taipei, 12 December 2016.

conditioned by competitive electoral politics (Wang 2010; Ho 2016, p. 289; Lee 2014, p. 55). According to this perspective, major party support for pro-labor policies, including the 2011 reforms, is explained primarily by organized labor's access to formal channels of interest articulation and intense electoral competition in the post-martial law era (Huang 2002; Shiao 1999; Pan 2001). While recognizing that institutional relationships and electoral interests facilitated the enactment of the 2011 reforms, I argue that institutionalist approaches encounter difficulty in explaining their character and content.<sup>4</sup> Moreover, the KMT's ongoing commitment to wide-ranging pro-labor reforms with the opposition party in shambles after a tumultuous eight years in office also stretches the analytical framework of institutionalist approaches.<sup>5</sup>

Engaging with Nancy Fraser's (2013) reformulation of Karl Polanyi's (1944) theory of the countermovement, I ask whether, and how, emancipatory politics influenced the enactment of the 2011 reforms. Analyzing the role of emancipatory politics in Taiwan has political as well as theoretical significance. Wendy Brown (2006, 2015) argues that the subordination of principles such as freedom, equality, inclusion, and popular sovereignty to market values in the neoliberal era has dulled the tools of radical politics. Coupled with the legacies

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<sup>4</sup> The KMT's decision to eliminate restrictions preventing migrant workers from joining unions as part of the 2011 reforms, for example, cannot be explained solely by either electoral interest or the nature of institutional relationships between political parties and labor organizations. On the one hand, migrant worker organizations have weak institutional ties with both major political parties. On the other hand, migrant workers are deprived of political rights and do not have the right to vote.

<sup>5</sup> The Chen Shui-bian administration has been widely panned for its dismal performance. President Chen left office embroiled in a corruption scandal involving close family members and was eventually found guilty on two charges of bribery and sentenced to 19 years in prison, reduced from a life sentence on appeal (see Hsiao & Ho 2010).

of authoritarian governance, however, the ‘unresolved’ and, more precisely, contentious, nature of Taiwanese sovereignty ensures that non-market values are a prominent force guiding political activity (Huang 2014; Rigger 2011; Huang & James 2014, p. 676). This study contributes to the academic literature on the narrowing of radical imaginaries and eclipse of humanist principles by market values in the neoliberal era by delineating the contours of emancipatory politics and movements against free market fundamentalism in Taiwan.<sup>6</sup>

I argue that a central political purpose of the 2011 reforms was to facilitate the signing of the Economic Cooperation Framework Agreement (ECFA) between the KMT and the Chinese Communist Party (CCP). The process of ratifying the ECFA paved the way for deepening cross-Strait economic liberalization and was a political lightning rod attracting vehement opposition from groups holding a wide range of ideological and material grievances. Facing stiff opposition to its ham-fisted approach in pursuing financial and trade liberalization with its revanchist counterpart in China, the Ma Ying-jeou administration strategically prioritized comprehensive pro-labor legislative reforms to show a commitment to protecting the working class in Taiwan, allay fears of the detrimental impacts of its cross-Strait orientation, and

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<sup>6</sup> Moreover, in post-martial law Taiwan, a profound but latent sense of tragedy infuses the spiritual élan of emancipatory movements. The strength of the tragedy narrative relative to romanticism stems from an elusive reconciliation and inchoate coming to terms with the crimes committed by the KMT during the ‘white terror’ era, including the notorious 2-28 Massacre, the international community’s perceived abandonment of the island, the limits of Taiwanese statehood, and, more prosaically, betrayal of public trust by icons of the pro-democracy movement. According to Scott (2004, p. 13), tragedy contains a more revolutionary political valence in the contemporary moment because of its “unstable and ambiguous” nature.

shore up its democratic credentials after returning to power for the first time since the lifting of martial law.

The next section engages the academic literature on labor law reform in Taiwan and introduces the theoretical approach informing this research. Following a brief description of research methodology, I then show how Taiwan's transition from one-party authoritarian rule to liberal democracy has shaped emancipatory politics. The subsequent section extends the analysis by delineating emancipatory politics in the context of epochal shifts in the geopolitical terrain at the turn of the twenty-first century. I then show how countermovement resistance to KMT-CCP negotiations over cross-Strait economic liberalization sharpened the political benefit of passing comprehensive pro-labor reforms for the former authoritarian party. The final section summarizes the theoretical implications of the study and suggests questions for further research.

## **LABOR LAW REFORM AND POLANYIAN COUNTERMOVEMENTS**

International forces were central to the limited changes made to the legal architecture of labor relations administered by the Republic of China (ROC) in exile (Cooney 1997, p. 57). Ruling at the helm of a US client state, Chiang Kai-shek and the Chinese Nationalists received generous financial and military aid

and privileged access to overseas markets courtesy of the US and its Cold War allies (Roy 2003). The ROC's unceremonious expulsion from the United Nations in 1971 in the context of thawing relations between the CCP and the Western bloc prompted the KMT to implement token reforms to the Labor Union Law in a bid to counter the authoritarian party-state's growing international isolation (Chu 2003, p. 24).<sup>7</sup> In the early 1980s, pressure from Washington on the KMT to reduce the ROC's ballooning trade surplus with the U.S. led to the enactment of the Labor Standards Law (LSL) in 1984.<sup>8</sup> Although the LSL stipulated basic protections for workers in the manufacturing sector, the KMT had little intention of encouraging compliance by enforcing its regulations (Chu 2003, p. 24; Huang 2002, p. 319).

Whereas dominant explanations of labor law reform during the authoritarian era privilege international factors, prevailing wisdom suggests that institutional relationships involving political parties and labor organizations are primarily responsible for labor law reform in the post-martial law era (Ho 2006). According to this perspective, robust institutional relationships between political parties and labor organizations ensured that both major parties were attentive to the interests of labor, while competitive elections in the post-

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<sup>7</sup>Attempting to project a democratic image onto the state-controlled and monopolistic Chinese Federation of Labor (CFL), the authoritarian party reduced the minimum threshold for union eligibility from fifty to thirty employees at a workplace in 1975, incidentally the year of Chiang Kai-shek's death (Chu 2003, p. 24).

<sup>8</sup> The influence of domestic factors on the implementation of the LSL is subject to debate among scholars who downplay the role of international politics. On the one hand, scholars suggest that the LSL was a top-down process designed to co-opt workers (Liu 2011, p. 30) or prevent the political opposition from gaining traction in local elections (Chu 2003). On the other hand, Tierney (2007) and Cooney (2007) suggest that social movement mobilization forced the KMT's hand.

martial law era obliged politicians to be generally responsive to the demands of organized labor.<sup>9</sup> Both major parties in Taiwan have consequently strategically endorsed pro-labor legislative reforms to secure support from a crucial voting bloc in the context of intense electoral competition (Ho 2016; Lee 2011; Huang 2002; Shiau 1999). Under this arrangement, politicians shored up the working class vote for contested electoral seats by forging strategic alliances with organized labor while union leaders and labor activists gained access and influence in lawmaking bodies by throwing their support behind major party candidates (Ho 2006).

Consistent with this dominant approach, existing research attributes the progressive content of the 2011 reforms to longstanding institutional ties between political parties and labor unions mediated by electoral interests (Ho 2016; Lee 2014).<sup>10</sup> In a sweeping survey of the political economy of labor legislation, for example, James Wang (2010, p. 81) situates the 2011 reforms within an ‘unintentional sequencing of tasks’ wherein the KMT and the Democratic Progressive Party (DPP) alternated making revisions to an anachronistic legal structure inherited largely intact from Republican China (1912-1949) (cf. Cook 2007). In a similar vein, Ho (2016, p. 289) argues that the

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<sup>9</sup> As a foreign occupier engaged in open hostilities with the CCP and lacking political legitimacy, the KMT operated a repressive state apparatus during the ‘white terror’ era while simultaneously providing space for political competition within narrow bounds by holding elections at the local level beginning in the 1950s. The KMT made sure to cultivate relationships with at least two, and sometimes more, factions within an electoral district so as to be able to prevent any one faction from becoming too powerful. Although it would be easy to overestimate their impact, the experience of competitive elections over local resources during the authoritarian era contributed to the development within political culture of a quid-pro-quo mentality toward formal arenas of politics.

<sup>10</sup> Alternatively, several government officials interviewed emphasized the freedom that President Ma Ying-jeou provided Deputy Minister of the Council of Labor Affairs (CLA) (now Ministry of Labor) Pan Shih-wei, the primary architect of the reforms.

2011 reforms were, in essence, fully formed and “not realized before 2008, chiefly because the KMT-controlled legislature did not want the DPP government to take credit for the reform.” The main catalyst for the 2011 reforms, in other words, was an impulse toward securing electoral support.

Although institutionalist approaches highlight key dynamics of labor politics in Taiwan, approaching the 2011 reforms from the theoretical work of Karl Polanyi sheds fresh light on the socio-historical forces animating the passage of the pro-labor legal revisions. Polanyi (1944) famously claimed that labor, land, and money are ‘fictitious commodities’ because they are not produced for sale and are therefore incapable of behaving like commodities as assumed by neoclassical economists (Clark 2014). For Polanyi, extending the reach and depth of the ‘self-regulating market’ would inevitably trigger social resistance to curtail the role of market imperatives. Whereas Marxist analyses emphasize resistance to exploitation at the point of production, Polanyi shifts the focus to movements against commodification engendered by the deepening of free market fundamentalism (Walker 2013).

At first blush, the 2011 reforms appear to conform to Polanyi’s theory of the countermovement. Relentless processes of marketization since the 1980s have undercut the position of workers in state-owned enterprises (SOEs) (Lee 2008; Phillion 2010) and the export-oriented private sector dominated by small and medium enterprises (SMEs) (Chen et al. 2003; Ho 2015), as well as the

KMT's 'iron votes' (*tiepiao*) under the authoritarian regime (Synott 2002; Ho 2015). Meanwhile, migrant workers and subcontracted labor, known as 'dispatch workers' (*paiqian gong*) in Taiwan, struggled to establish basic rights under emerging systems of labor market segmentation in the post-martial law era (Tierney 2007; Tseng & Wang 2013; Ho 2015, 2016; Tsai 2014). Confronted with a strengthening neoliberal policy regime since the late 1980s, diverse groups within Taiwanese society mobilized to demand state protection in the context of widespread socio-economic dislocation and growing insecurity (Chu 2003; Lee 2008; Phillion 2010; Liu 2015; Ho 2015, 2016). From a Polanyian perspective, the extensive legislative revisions enacted in 2011 were a direct political response to countermovement resistance demanding social protection from the ravages of the market.

Taking a wider vantage point, however, the passage of the 2011 reforms reveals key tension within the capitalist state's commodification regime. Significantly, the decommodifying revisions came together while the KMT was simultaneously pursuing an agreement to facilitate free market integration with the People's Republic of China (PRC).<sup>11</sup> This uneven character of commodification processes strains the capacity of Polanyi's 'apolitical' and 'overly mechanistic' account of social change (Dale 2012; Smith 2013; Hay 2004; Munck 2006) to explain how countermovement struggles influence

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<sup>11</sup> This observation cautions against conceptualizing the Polanyian countermovement as a 'pendulum swing' of historical forces (Patomaki 2014).



political activity. To address these limitations in other contexts, scholars have highlighted the impact of state-society relationships on processes of commodification and the content and character of countermovement resistance (Levien 2007; Levien & Paret 2012; Kim 2010; Friedman 2013; see Liu 2015 for a Polanyian approach to labor and environmental politics in Taiwan).

In the case of Taiwan, countermovement struggles are embedded within a ‘dual transition’ (Webster & Adler 1999) from state corporatism to neoliberalization, and from authoritarian rule to formal democracy (Gray 2015), and therefore cannot be divorced from emancipatory politics. Emancipatory politics are conceptualized for the purposes here as operating on two interrelated levels. On the one hand, the CCP’s territorial claims over Taiwan in the context of cross-Strait free market integration have raised alarms over threats to national sovereignty and the erosion of self-autonomy. On the other hand, a strong sentiment in public discourse considers the democratization of Taiwan’s domestic political institutions an incomplete process. Coupled with KMT-CCP rapprochement, the ROC’s origins in China only exacerbates resentment over the KMT’s authoritarian pedigree and the perception that anti-democratic elements continue to choke freedom in Taiwan.

I therefore follow Fraser (2013) in including emancipation as an axis of radical politics in the Polanyian countermovement. Significantly, Fraser (2013)

identifies both protectionist and marketizing tendencies in emancipatory movements, and insists on treating commodification and decommodification movements as empirical phenomena without ascribing to them an *a priori* normative orientation (Holmes 2012).<sup>12</sup> These movements, in turn, do not develop in isolation from one another, but through mutual interaction.

Emancipatory politics, too, are not without internal contradictions, and political movements cohering around emancipation can take forms antithetical to social justice. Nationalism as a form of emancipatory politics finds expression in toxic forms, for example, such as privileging the nation-state over people as the subject of liberation.<sup>13</sup> Moreover, a particular strain of emancipatory politics in Taiwan perversely champions U.S. imperialism as a bulwark against the CCP.<sup>14</sup> Untroubled by either the murderous policies of the U.S. or Washington's crucial role in propping up the authoritarian KMT during the 'white terror' era, defenders of this orientation brandish national security and social preservation to portray Taiwan's relationship with the U.S in unassailable terms.<sup>15</sup> The normative orientation of both emancipatory and decommodification movements, therefore, are immanently empirical questions.

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<sup>12</sup> Fraser (2014, p. 548) writes that the Polanyian double movement is blind to the fact that "what commodification erodes is not always worth defending, and that marketization can actually foster emancipation by weakening traditional supports for domination."

<sup>13</sup> In Taiwan, prominent examples include a willingness to blindly defend corruption involving DPP politicians on the basis of ethnic politics, support for policies discriminating against individuals from China in the interest of national security, and opposition to robust labor protections for marginalized workers as a means of strengthening the Taiwanese economy.

<sup>14</sup> The fragility of national consciousness in post-colonial states identified by Fanon (2004) and the paradoxical 'double ends' of decolonization—social uplift and defense against empire (Du Bois 1995, p. 256-7) —are distinct features of post-martial law Taiwan.

<sup>15</sup> Interview with journalist Hao-zhong Wang, Taipei, 6 July 2016.

## RESEARCH METHODOLOGY

The extensive pro-labor legal reforms of 2011 have thus far largely escaped scholarly attention. This paper contributes to the sparse academic literature by delineating the socio-historical forces setting the stage for the overhaul of labor law in Taiwan. The twin processes of neoliberalization and democratization have been central features of social change in Taiwan as well as in other members of the club of ‘third wave democracies’ (Huntington 1991) in the last quarter of the twentieth century. Engaging with the forces animating the passage of the 2011 reforms in Taiwan can therefore illuminate the interplay of decommodification and emancipatory movements and the politics of resistance and social change in other ‘dual transition’ contexts in the neoliberal era.

The research for this study is based on fieldwork in Taiwan, secondary literature, newspaper articles, and document analysis. Fieldwork data consist of 60 interviews with labor and social movement activists, government officials, union members, public intellectuals, and journalists, supplemented by attending union meetings, political education workshops, and political party general assemblies. Interviews were conducted in person in Mandarin between May-August 2016 and December 2016-January 2017. I contacted interviewees using the ‘snowball method’ to identify potential informants wherein interviewees recommended subsequent interviewees. Interviews typically lasted one to two

hours, and in some cases were followed up with subsequent appointments. Attendance at protest rallies, city council meetings, and political events provided further insight into the field of study and opportunity to recruit informants for the research.

## EMANCIPATION IN THE POST-MARTIAL LAW ERA

Approaching three decades since the end of martial law, the political terrain in Taiwan continues to be marked by the presence and influence of authoritarian era figures, institutional practices, and organizations (Fell 2005; Matsumoto 2002; Stolojan 2017). Formal democratization was not matched by the systematic dissolution of the KMT's privileged connections and patron-client relationships with local political factions, civil society organizations, an emergent class of large business groups, and occupations constituting its 'iron votes' (*tiepiao*) during the authoritarian era (Mattlin 2011).<sup>16</sup> Although the lifting of martial law unleashed a torrent of social movement activity by at least eighteen movements previously repressed and neglected under the party-state regime (Hsiao 1990), the KMT managed to remain highly competitive in the post-martial law political landscape and protect much of its material and immaterial legacies inherited from the authoritarian era (Shiau 1999). Indeed, a common perception suggests that the KMT chose to democratize in an elite-

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<sup>16</sup> There is some debate over which groups should be included within the category of the KMT's 'iron votes' (*tie piao*). I include union members in state-owned enterprises (SOEs), civil servants, teachers, and military personnel.

driven process due to confidence in its ability to maintain power under liberal democratic institutions (Wu & Cheng 2011). Under the leadership of President Chiang Ching-kuo's appointed successor, President Lee Teng-hui, the KMT retained its grip over the presidency for thirteen years after the end of the one-party state.<sup>17</sup>

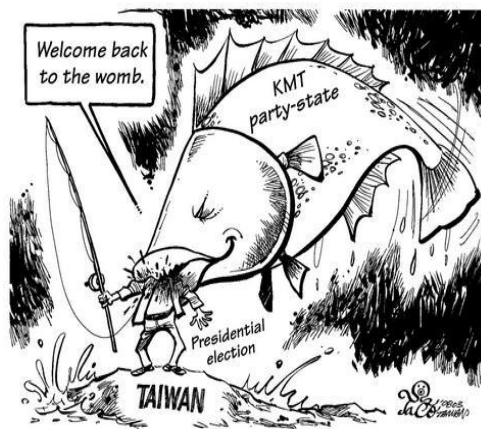
As one of the “world’s most successful authoritarian successor parties” (Loxton 2016, p. 22), the KMT’s enduring political clout and the staying power of political figures from the martial law era have shaped the character of class conflict in Taiwan (Pan 2001). Although DPP politicians have proven no less susceptible to malfeasance, the KMT party is strongly associated in the public consciousness with corruption and shadowy financial dealings in addition to more run-of-the-mill influence peddling and graft described colloquially as ‘black gold’ (*beijin*) politics (Roy 2003, p. 205-209; Choi 2015). The KMT possesses tremendous resources dwarfing those of the DPP, including vast holdings in news agencies, construction companies, hospitals, and hundreds of parcels of real estate properties taken from the retreating Japanese colonial administration and accumulated during the party-state era (Chu 1998, 1999; Cheng 2006, p. 371). The lingering consequences of the interpenetration of the KMT and the state include the party’s improper influence over financial

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<sup>17</sup> Lee Teng-hui was appointed to office in 1988 and won the first democratic elections held for president in 1996.

institutions and public assets in the form of SOEs and party-owned enterprises (POEs) (Matsumoto 2002; Lin 2009).

Beyond the KMT's association with illicit party assets and organized crime (Lo 2008), the retention of strong interpersonal networks and institutional ties between the party and local factions (Braig 2016), the police (Lai 2016), military (Lee 2007), and peak civil society organizations,<sup>18</sup> has raised serious doubts over whether these groups are more loyal to the KMT than to the ROC.<sup>19</sup> The political vitality of the former authoritarian party and the continuity of its relationships with state and civil society organizations ensure that the contours of politics are heavily shaped by questions of transitional justice [Figure 1] (Hwang 2016; Wu 2005).



[Figure 1]  
“Return of the KMT Party-State” (*Taipei Times*, March 23, 2008)

<sup>18</sup> Notable examples include the National Women's League and the China Youth Corps.

<sup>19</sup> <https://newbloommag.net/2017/06/09/chinese-womens-league-controversy/>

The KMT's undemocratic sources of power and influence and the contentious nature of state and nationhood have shaped the parameters of social resistance in Taiwan in several ways. First, the core institutions of the Taiwanese polity are inextricably linked with the KMT and its authoritarian past and attract a wide spectrum of social movement activism. Encapsulating the state and penetrating civil society organizations throughout nearly four decades of one-party rule, the KMT continues to exert political influence apart from its democratic mandate in both direct and indirect ways. Social struggles of all stripes therefore continue to coalesce around both the party and state.

President Hsu-cheng Chang of the National Federation of Teachers Unions, for example, viewed the 2011 reforms as part of an effort at mitigating protest against the state.

Back then [before the 2011 reforms], the government was involved in everything. It had to intervene in pretty much any social problem. If any group had a collective grievance, they raised it with the government and politicians who might be swayed to act. I see the change as a way to encourage unionization... [so that] the government can wash its hands of many social problems by telling employers to deal with them rather than being on the front line in every single issue that comes up.<sup>20</sup>

Second, the deeply polarizing issues of freedom, justice, sovereignty, and nationalism lurk near the surface of movements for social, political, and economic reform. The upshot of these socio-historical phenomena is that

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<sup>20</sup> Interview with President of National Federation of Teachers' Unions Hsu-cheng Chang, Taipei, 10 January 2017.

central state institutions in general, and the KMT in particular, can seamlessly become a touchstone for broad-based social mobilization and intense political conflict.<sup>21</sup> The combination of institutional legacies and deep-seated antagonism between the KMT and social movement organizations oriented around emancipation is therefore a potent catalyst for extra-institutional protest (cf. Heaney & Rojas 2015).

Beyond the dubious nature of relationships between the former authoritarian party and socio-political institutions and organizations and economic interests, there is a widespread perception that the KMT arrived in Taiwan to replace the Japanese colonial regime as foreign occupier rather than as liberation force.<sup>22</sup> The inseparability of the ROC from the KMT in this historical context means that national identity and statehood rest on precarious and divided grounds (Hsieh 2004; Zhong 2016). Coupled with the CCP's refusal to rule out military occupation of Taiwan, the convoluted relationship between the ROC and the PRC guarantees that issues of state and nationhood permeate the political sphere in Taiwan (Mattlin 2011).<sup>23</sup> The next section discusses the changing relationship between the KMT and the CCP in the context of an emerging neoliberal policy regime in Taiwan.

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<sup>21</sup> While issues of national identity and popular sovereignty have tremendous power in mobilizing collective action, their divisive character can also undermine the building of solidarity and therefore undermine collective action.

<sup>22</sup> A survey of the portrayal of life under Japanese colonialism and association of the Japanese colonial period with progress in the public consciousness is indicative of this belief. The KMT's ignominious retreat to Taiwan with its army in disarray, meanwhile, undermines the credibility of the narrative of the KMT as liberation force.

<sup>23</sup> The ROC constitution, for example, is periodically subject to debate over whether it should be amended or even scrapped entirely. The Taiwan Civil Government (*taiwan min zhengfu*) represents an iconoclastic, but suggestive position on the issue of the constitution and national sovereignty. Founded in 2008, the group claims to have 40,000 members and argues that the ROC is an illegitimate government on Taiwan. The group's official goals include the return of Taiwan to Japanese control and conferral of Japanese citizenship.



## CROSS-STRAIT LIBERALIZATION AND NATIONAL SOVEREIGNTY

Cataclysmic changes in the wider geopolitical context have accompanied the disjointed process of replacing the ‘quasi Leninist’ KMT party-state structure with liberal democratic institutions (Mattlin 2011). Although the ROC remains embedded within the U.S. military umbrella, Taiwan’s economic dependence on trade with China increased exponentially in the post martial-law era (Lin 2015). Taiwanese capital also played a crucial role in fueling export-oriented production in China, particularly in special economic zones (SEZs) along the southeastern coast, despite formal bans on cross-Strait capital flows (Hsing 1998; Hung 2015, p. 73-75). A class of Taiwanese entrepreneurs (*taishang*) who invest in China comprised of both tycoons and SMEs capitalists emerged in the 1990s as a result (Schubert et al. 2017).

Popular perception regards the *taishang* as a ‘linkage community’ and associates its class interests as contributing to a blurring of political boundaries (Schubert et al. 2016). According to one narrative, the *taishang* are part and parcel of a ‘hegemonic project’ to advance the interests of cross-Strait political and economic elite (Beckershoff 2014b). Focusing on the capitalist nature of the suggested alliance, Feng-yi Chang of the Taiwan Labor Front (TLF) remarked only half jokingly that, “people talk about cross-Strait integration as if

it's something to prevent or promote in the future... what they don't realize is that Chinese and Taiwanese capitalists are already integrated!"<sup>24</sup>

Political developments after the first democratic turnover of power in Taiwan in 2000, meanwhile, further transformed the nature of cross-Strait relations. On the one hand, the failure of coercive measures to produce the CCP's desired outcomes in national elections in Taiwan heralded a shift in Beijing towards a 'united front' strategy first practiced in Hong Kong (Lam & Lam 2013; Fan 2010).<sup>25</sup> On the other hand, the KMT's unsuccessful bid to unseat incumbent President Chen Shui-bian in 2004 prompted the former authoritarian party to shift gears in its orientation toward the CCP. In 2005, KMT stalwart Lien Chan traveled to China on a 'journey of peace' to meet President Hu Jintao (Beckershoff 2014b, p. 219-20; Myers 2011). Lien's pilgrimage to China constituted the first meeting between KMT and CCP leaders since 1945 and the first time since 1949 that a leader of the Chinese Nationalists had returned to the mainland.<sup>26</sup> Following the historic Lien-Hu summit, the KMT and the CCP engaged in a series of forums in 2006-2007 touching on economic, agricultural, and cultural issues (Weissmann 2009, p. 100).

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<sup>24</sup> Interview with Executive Director of Policy Research of Taiwan Labor Front Feng-yi Zhang, Taipei, 5 July 2016.

<sup>25</sup> <https://www.reuters.com/article/us-taiwan-china-special-report/special-report-how-chinas-shadowy-agency-is-working-to-absorb-taiwan-idUSKCN0JB01T20141127>

<sup>26</sup> <http://www.taipetimes.com/News/front/archives/2005/04/30/2003252532>

The dramatic volte-face in the relationship between the KMT and the CCP since the turn of the 21<sup>st</sup> century (Beckershoff 2014b) has positioned the former authoritarian party on the side of a one-party state refusing to renounce the use of force to exercise sovereignty over Taiwan.<sup>27</sup> Meanwhile, both the allure of cross-Strait economic liberalization and apprehension over CCP interference in Taiwanese politics reached a fever pitch with China on the cusp of overtaking Japan as the world's second-largest economy in the wake of the 2008 Great Recession.<sup>28</sup> Veteran activist and scholar Yu-ling Ku described the long shadow cast by national sovereignty over cross-Strait economic liberalization,

Of course you could try and talk about labor politics and working class consciousness. But the China factor always hijacked debate in the end. As soon as you mentioned China, the conversation deteriorated into fear and worry about titanic Chinese capitalists, the insurmountable strength of China, China and its population of 1.3 billion people... until in the end, the entire conversation was centered on combating China without any hope of achieving political clarity.<sup>29</sup>

Deepening commodification was therefore intimately bound up with a generally inscrutable understanding of China and evoked the threat of a hostile state claiming the island as its own through violent and undemocratic means [Figure 2].

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<sup>27</sup> The influence of domestic politics on the CCP's policies vis-à-vis Taiwan is beyond the scope of this paper (but see Liao 2016; Cabestan 2009; Lai & Kang 2014; Zhang 2014).

<sup>28</sup> <https://www.theguardian.com/business/2011/feb/14/china-second-largest-economy>

<sup>29</sup> Interview with labor movement activist Yu-ling Ku, Taipei, 29 July 2016.



[Figure 2]  
 “United Front” (*Taipei Times*, Oct. 25, 2009)

Despite these fears, rapprochement between the CCP and the international capitalist class (Harvey 2005) and an emerging ‘Cross-Strait historical bloc’ (Green 2016) of politico-economic interests in support of economic integration converged with the return of the KMT to the presidential office in 2008. The final section sketches an outline of countermovement resistance in twenty-first century Taiwan and situates the 2011 labor reforms within a broader context of escalating pressure for cross-Strait economic integration.

## COUNTERMOVEMENT RESISTANCE AND THE 2011 REFORMS

Processes of financialization, capital flight, privatization, and labor market segmentation gained steam in Taiwan throughout the 1990s (Chen et al. 2003; Tierney 2007; Jiang and Su 2006; Hsu 2009; Chi and Kwon 2012; Ho 2015). At the same time, real estate speculation and collusion between the state and property developers and polluting industries wreaked havoc on local

communities and forced residents from their homes in growing numbers (La Grange et al. 2006; Chen 2011; Liu 2015). Moreover, a freeze in the minimum wage between 1997 and 2007 coupled with a tremendous increase in the number of workers whose monthly earnings equaled the basic wage under the Labor Standards Law (LSL) contributed to the upward redistribution of wealth in the post-martial law era (Tsai 2014). The result of these interrelated processes has been escalating income and wealth inequality, soaring youth unemployment, deteriorating working conditions, and widespread economic insecurity in Taiwan.

President Chen Shui-bian's victory in the 2000 election and the long-awaited end of KMT rule did little to quell frustration with the social consequences of free market fundamentalism among a wide segment of the population. The Youth Labor Union 95 (YLU 95), established by a group of students in 2005, successfully demanded that the government eliminate a disparity between full-time and part-time workers by including holiday time in the calculation of the minimum wage for the latter during a review of the minimum wage in 2007. The YLU 95 also waged a high-profile campaign in 2008 against a major café chain notorious for wage theft and other abuses at the workplace.<sup>30</sup> Meanwhile, Thai workers in the construction industry engaged in a violent protest in 2005 that exposed government corruption and abuse in

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<sup>30</sup> Interview with Director of Organizing of Taiwan Higher Education Union Por-ye Lin, Taipei, 28 July 2016.

the state-sanctioned migrant labor system (Tierney 2007). Workers not covered by the LSL, including social workers, nurses, and doctors, also began agitating for greater protection and labor rights (Ho 2016). Finally, teachers organized a massive parade attended by over 100,000 people demanding that the government respect the three labor rights of teachers in 2002. Three years later, in 2005, the National Teachers' Association participated in the annual May Day demonstration as a collective group for the first time in its history (Ho 2005).

Promising to revive economic growth through cross-Straits economic liberalization, the incoming Ma administration wasted no time in making a bold statement by inviting Chairman Chen Yunlin of China's Association for Relations Across the Taiwan Straits (ARATS) to visit the island in 2008.<sup>31</sup> The highest-ranking official from the CCP to ever set foot in Taiwan at the time, Chen Yunlin met with President Ma as well his counterpart, Chairman Pin-kung Chiang, of Taiwan's Straits Exchange Foundation (SEF) (Lim 2008). The unprecedented event sparked mass protests during which demonstrators shadowing Chen and his delegation clashed with police officers.<sup>32</sup> Police actions during Chen's visit drew comparison with state repression during the martial law era and included shutting down major highways, banning the national flag, placing restrictions on the freedom of speech, confiscating political signs

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<sup>31</sup> It is also worth noting that the Ma administration suspended talks with the U.S. under the Trade and Investment Framework Agreement (TIFA), the highest level of engagement between trade officials from the two nations, between 2008-2012.

<sup>32</sup> <http://content.time.com/time/world/article/0,8599,1857093,00.html>

deemed to be offensive, detaining citizens filming the protests, and ordering a music store playing Taiwanese music to close.<sup>33</sup>

The Ma administration's handling of the visit, especially the repressive tactics employed by law enforcement, confirmed for many the KMT's willingness to resort to authoritarian tactics if necessary to advance its cross-Strait policy agenda.<sup>34</sup> Protesters calling themselves the Wild Strawberries Movement demanded, among other things, that the Legislative Yuan review the Assembly and Parade Law to ensure the right of peaceful assembly and expression (Fell 2017, p. 5-7). Students began a sit-in on November 7<sup>th</sup> in front of the Executive Yuan and protests spread like wildfire to a string of cities on Taiwan's densely populated western coast, with sit-ins organized in Kaohsiung and Tainan on the same day, followed by similar actions in Taichung, Changhua, Hsinchu, and Chiayi (Ho 2014).<sup>35</sup>

The incongruence between the KMT's influence in government under the Ma administration and weak general support for the party stoked the perception that the former authoritarian party was betraying public trust and turning a blind eye to the national interest. With the KMT capturing an overwhelming majority of seats in the Legislative Yuan in the 2008 national elections, President Ma took office with considerable political latitude to push

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<sup>33</sup> <https://freespeechintaiwan.wordpress.com/2008/11/10/action-statement-from-the-wild-strawberry-movement/>  
<http://www.taipeitimes.com/News/front/archives/2008/11/04/2003427719>

<sup>34</sup> Interview with Executive Director of Policy Research of Taiwan Labor Front Feng-yi Zhang, Taipei, 5 July 2016.

<sup>35</sup> The Wild Strawberries Movement was unsuccessful at winning its demands, including the resignation of top officials and reform of the Parade and Assembly Act (Yuan 2017).

through his policy initiatives. The KMT's landslide victory after eight years as the opposition party, however, was sealed in large measure by a spiraling corruption scandal embroiling President Chen Shui-bian that unfolded rapidly in the closing months of his second term (Qi 2013; Hsiao & Ho 2010).<sup>36</sup> The DPP's electoral defeat was therefore less an open mandate for the KMT's cross-Strait policies than a denunciation of the DPP's dismal performance and the Chen administration's betrayal of public trust after the first turnover of executive power in Taiwan [Figure 3].



[Figure 3]  
“Shrunken Electoral Mandate” (*Taipei Times*, Feb 28, 2009)

It was in this contentious environment that the Ma administration entered into negotiations with the CCP over the ECFA. In addition to the ECFA, the Ma administration concluded no less than 10 agreements with the CCP to liberalize financial services, postal services, sea and air transport, and

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<sup>36</sup> Other factors contributing to dissatisfaction with the DPP include economic stagnation blamed on President Chen's pro-independence stance and disillusionment among social movement supporters with the Chen administration's track record of pandering to corporate interests (Qi 2013).



tourism and food safety (Hsieh 2011). The developing cross-Strait consensus constituted “unprecedented changes that one could hardly imagine before the power transition” (Wu 2011, p. 30).

The détente between the KMT and the CCP aroused not only anxieties over Chinese aggression, but also rankling dissatisfaction with lingering authoritarian legacies. Political opponents, including the DPP and its supporters, seamlessly tapped into collective memories to depict the KMT as reviving its authoritarian past by engaging in unpopular and unaccountable interactions with the CCP while unconditionally resisting public demands for a referendum to be held over the ECFA [Figure 4].<sup>37</sup>



[Figure 4]  
“Democracy for Sport” (*Taipei Times* August 19, 2010)

As a consequence, cross-Strait economic liberalization was fraught with difficulties created by the intertwined issues of the KMT’s authoritarian past

<sup>37</sup> <http://www.taipetimes.com/News/editorials/archives/2005/04/03/2003248939/1>  
<http://www.taipetimes.com/News/front/archives/2009/05/30/2003444907>

and the CCP's unequivocal territorial claim over Taiwan. Moreover, general public sentiment strongly supported maintaining the 'status quo' and opposed sudden changes disturbing the cross-Strait balance of power (Kaeding 2011, p. 274).

Although the KMT claimed that cross-Strait economic liberalization would benefit ordinary Taiwanese by boosting economic growth, the devastating socio-economic consequences of de-industrialization in the wake of capital flight, largely destined for China, during the long decade of the 1990s has remained fresh in collective memory.<sup>38</sup> Indeed, a common refrain heard among members of the working class was that “China is stealing our jobs... Taiwanese companies invest in China and take care of Chinese workers, not us” [Figure 5].<sup>39</sup>



[Figure 5]  
“Cui Bono?” (*Taipei Times*, Nov. 2, 2010)

<sup>38</sup> *ibid*

<sup>39</sup> Interview with journalist Hao-zhong Wang, Taipei, 6 July 2016.

The coupling of political conservatism and neoliberalism characterizing the KMT's twenty-first century cross-Strait policy orientation therefore incited fears of democratic backsliding, loss of political autonomy, and economic insecurity and deprivation.

Recognizing the deeply controversial nature of heightened economic integration with China, the Ma administration prioritized enacting comprehensive pro-labor legal reforms in concert with advancing its cross-Strait economic policy. Introducing legislation to decommodify labor was therefore simultaneously an attempt to fracture the political opposition by appeasing working class opposition to cross-Strait economic liberalization and a means of distancing the KMT from its authoritarian past and the CCP.<sup>40</sup>

The alignment of the interests of labor and emancipatory movements in tension with the Ma administration's overarching policy objectives explains the fervor with which the KMT sought to overhaul the ROC's core labor laws. Yu-cheng Hong of the TLF described how the political climate was marked by a 'pervasive sense of crisis.'

It was as if everything had been decided for us, as if the story had already been written. People felt that democratic control was slipping away in the name of closer economic integration with the Mainland. It was as if the country was being sold off.<sup>41</sup>

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<sup>40</sup> The KMT's ratification of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 2008 evinces a similar distancing from both authoritarianism and the CCP's perceived disregard for human rights.

<sup>41</sup> Interview with Taiwan Labor Front Director of Media Communications Yu-cheng Hong, Taipei, 5 July 2016.

In this context, the KMT passed the labor law reforms as a sign of good faith to workers while underscoring the anticipated benefits to economic growth and unemployment numbers of increased access to Chinese markets. Meanwhile, reforms to the Employment Insurance Act passed in 2009 allowing the Council of Labor Affairs (CLA) to extend unemployment subsidies from 6 months to 12 months in accordance with the unemployment rate were also viewed with critical recognition of looming cross-Strait economic liberalization [Figure 6].<sup>42</sup>



[Figure 6]  
“Fully Prepared” (*Taipei Times*, November 10, 2009)

Instead of adhering strictly to an institutional model of class compromise wherein the state or capital responds to demands articulated by organized interests, the 2011 reforms were a stratagem to undermine the strength of

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<sup>42</sup> <http://www.taipeitimes.com/News/taiwan/archives/2009/04/01/2003439900/1>

broad-based resistance to cross-Strait economic liberalization. The former authoritarian party accomplished this in the near term with the successful ratification of the ECFA in 2010 soon after the KMT and the CCP reached an agreement at the fifth round of talks.<sup>43</sup> The fragile political legitimacy of KMT-CCP negotiations shattered, however, with the outbreak of the Sunflower Movement in 2014 in opposition to the Cross-Strait Service Trade Agreement (CSSTA).<sup>44</sup> Underscored by a spectacular twenty-four day occupation of the legislative chambers, cross-Strait economic liberalization spearheaded by the cross-Strait negotiating partners triggered a tremendous groundswell of popular anger that successfully prevented ratification of the CSSTA.<sup>45</sup>

## CONCLUSION

With right-wing movements surging at a moment of multiple interrelated crises, heightening geopolitical tensions, and tremendous violence normalized by what Henry Giroux terms a ‘culture of cruelty,’<sup>46</sup> the imperative to understand the dynamics of political resistance and social transformation is increasingly urgent (Fraser 2016). The theoretical work of Karl Polanyi is particularly instructive in the current moment when movements for social

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[https://www.mac.gov.tw/en/News\\_Content.aspx?n=69EE7CEA8C7550BB&sms=D6D0A9E658098CA2&s=FD1ADAC687DF1AC0](https://www.mac.gov.tw/en/News_Content.aspx?n=69EE7CEA8C7550BB&sms=D6D0A9E658098CA2&s=FD1ADAC687DF1AC0)

<sup>44</sup> I use the term “Sunflower Movement” to describe the outburst of organized opposition to the Cross-Strait Service and Trade Agreement (CSSTA) because it is the most widely used in public discourse. For political reasons, others prefer the term “318 Student Movement,” or simply, the “318 Movement.”

<sup>45</sup> Interview with Director General of Kaohsiung Federation of Labor Unions Shih-teh Long, Kaohsiung, 22 June 2016.

<sup>46</sup> <https://www.counterpunch.org/2015/10/23/culture-of-cruelty-the-age-of-neoliberal-authoritarianism/>

protection across the international landscape are once again looking beyond the ‘absurd notion of a self-regulating market’ (Polanyi 2001, p. 151).

This paper therefore investigated the socio-historical forces underlying the enactment of decommodifying labor reforms in Taiwan through a broadly Polanyian interpretive lens. Whereas Polanyi would posit that the pro-labor policies originated from an impulse to protect society from free market fundamentalism, this research adopts Nancy Fraser’s (2013) reformulation of the Polanyian ‘double movement’ to argue that the KMT passed the 2011 reforms to fragment emancipatory countermovement resistance to cross-Strait economic liberalization. In particular, the Ma Ying-jeou administration prioritized the enactment of the 2011 reforms as a means of peeling labor movement opposition from organized resistance to heightened cross-Strait economic integration. The 2011 reforms therefore institutionalized marginal decommodification in order to defuse emancipatory social impulses and advance a broader political agenda encompassing cross-Strait commodification.

Although the Ma administration used the unevenness of commodification processes as a source of political advantage to facilitate ratification of the ECFA, militant protest hindered further steps toward cross-Strait economic liberalization. Notably, organized labor was a mainstay in the streets outside of the Legislative Yuan for the duration of the Sunflower Movement in 2014, and mobilized members from the string of major cities on

the west coast to attend mass demonstrations that eventually derailed the CSSTA.<sup>47</sup>

An assessment of the consequences of the changes to Taiwanese labor law is beyond the scope of this paper. cursory observation indicates, however, that their impact has been attenuated by both the failure of the reforms to address significant institutional barriers to unionization and the tremendous power imbalances between capital and labor in Taiwan.<sup>48</sup> Labor militancy in recent years, including the remarkable China Airlines strike in 2014 and recent protests against the Tsai administration's revisions to the LSL that threaten to 'set Taiwanese labor law back thirty years,'<sup>49</sup> indicate the limited impact of the 2011 reforms in improving the working lives of people in Taiwan.

Further research should flesh out the contours of labor and emancipatory politics in Taiwan. One prominent sentiment in public discourse stands behind the spirit of the Washington consensus and the project of the 'new American century' in the name of safeguarding national sovereignty.<sup>50</sup> Meanwhile, a competing discourse backed by the Chinese Nationalist camp has emerged, defending free market integration with China behind the well-worn claim that weak economic growth will cause Taiwan to 'fall behind' the

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<sup>47</sup> Interview with Director General of Kaohsiung Federation of Labor Unions Shih-teh Long, Kaohsiung, 22 June 2016. Interview with Citizen of the Earth, Taiwan Researcher Walen Huang, Kaohsiung, 13 June 2016.

<sup>48</sup> Barriers to unionization include the requirement that a company employ thirty workers to be eligible for unionization as well as a discriminatory legal framework depriving migrant workers of social and political rights.

<sup>49</sup> <https://www.twreporter.org/a/refine-labour-law-moving-backward>

<sup>50</sup> Interview with labor movement activist Yu-ling Ku, Taipei, 29 July 2016. Interview with student activist Peng-da Shen, Hsinchu, 11 January 2017.

international community.<sup>51</sup> Coupled with mounting socio-political upheaval in the twenty-first century gilded age, these political tendencies suggest that the celebrated 'status quo' in Taiwan, namely, increasing economic integration with China and de facto independence backed by Washington, stands on shaky ground. The intersection of Taiwan's 'dual transition' with this geopolitical terrain implies that non-market principles will continue to heavily inform the ideology of class politics on the island in an age of Tigers and Flies.

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<sup>51</sup> <http://taiwantoday.tw/news.php?unit=6,23,45,6,6&post=11052>



## APPENDIX

Table of Interviews Cited

Interviewee	Position	Location	Date
Walen Huang	Researcher with Citizen of the Earth, Taiwan	Kaohsiung	13 June 2016
Shih-teh Long	Director General of Kaohsiung Federation of Labor Unions	Kaohsiung	22 June 2016
Yu-cheng Hong	Director of Media Communications of Taiwan Labor Front	Taipei	5 July 2016
Feng-yi Zhang	Executive Director of Policy Research with Taiwan Labor Front	Taipei	5 July 2016
Hao-zhong Wang	Journalist, <i>Coolloud</i>	Taipei	6 July 2016
Por-yee Lin	Director of Organizing of Taiwan Higher Education Union	Taipei	28 July 2016
Yu-ling Ku	Activist scholar	Taipei	29 July 2016
Wen-juan Luo	Special Committee Member of the Department of Labor Relations	Taipei	12 December 2016
Hsu-cheng Chang	President of National Federation of Teachers' Unions	Taipei	10 January 2017
Peng-da Shen	Student activist	Hsinchu	11 January 2017

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